ORAL ARGUMENT REQUESTED

Supreme Court, U.S.
FILED
DEC 28 1988
JOSEPH F. SPANIOL, JR.
CLERK

IN THE (3)

Supreme Court of the United States

No. 88-971

IN RE: BERNARD J. DOLENZ

Petitioner,

Supplement

~~MOTION TO [illegible] TIME~~

Bernard J. Dolenz
6102 Swiss Avenue
Dallas, Texas 75214

Pro Se

SUP

TO THE JUSTICES OF THE UNITED STATES SUPREME COURT;

Petitioner, Bernard Dolenz files this, his Motion for Extention of Time, and for cause would show as follows:

1. A Petition for a Writ of Mandamus or a Writ of Prohibition was docketed in this Court on May 2, 1988 as No. 88-971.

2. While the Trial Court denied the Motion for Hearing Regarding Jurisdiction 2/11/88, sending notice, the clerk did not send any notice regarding a Judgment being docketed 2/22/88. The clerk did not send notice regarding this notice per FRCP 77(d) even though she had assured the Petitioner that she would keep the owner posted following several phone calls and trips regarding this case. Inquiry on

4/6/88 revealed that a judgment had been entered. A Motion to Extend Time for Appeal was sent 4/7/88 pursuant to FRAP 4(a) and case law dealing with Rule 77(d) and 60(b) before the 60 days would run. A Notice to Appeal was filed 4/14/88. The Trial Court judge denied the Motion to Extend Time to Appeal 4/22/88.

3. The Petitioner contends that Judge Zloch abused his discretion in not granting the Motion to Extend Time to Appeal even though the Notice of Appeal was filed more than 30 days after entry of final judgment because of the circumstances that impact upon Rules 77(d) and 60 (b) and the 11th Circuits December 1987 case, TESSMER V. WALKER, 833 F2d 935. The Petitioner contends that he followed WALKER as he did everything reasonable under the

circumstances to kept informed short of groveling and living at the Ft. Lauderdale Federal Courthouse. The clerk indicated she would keep me posted as I had made a nuisance by making several phone calls and visits to review the file.

4. Judge Zloch would never give a hearing thoughout all of this paper work; denied Motions for a hearing even. I have never seen Judge Zloch; never talked with him. I have an audience with the Pope in May; but I cannot get an audience with the Court in Fort Lauderdale even though I am the owner of the defendant vessel, which the Court knows though sworn testimony of the previous owner and by my statement of claim of ownership.

5. A check for $45,995.78 was tendered

to the clerk to have the vessel released 6/30/88 pursuant to Rule 4 (4)(f). Earlier repeated requests for the judgment payoff amounts from clerk and U.S. Marshall remained unanswered.

6. Because repeated calls to the Clerk regarding the release of the vessel since money had been tendered and calls to Judge Zloch's chambers resulted in no action or order, a FRAP 8 Motion was requested of the 11th Circuit 7/14/88. To date, neither Judge Zloch nor the 11th Circuit will give a release of the vessel; nor can I obtain information for its release. In the meantime, the vessel is deteriorating, which had been called to the Zloch Court and 11th Circuit's attention.

7. The 11th Circuit has refused to render a decision on the jurisdictiional

issue of whether or not the Trial Court ever had jurisdiction. Both Courts have been showed three distinct documents showing the defendant vessel is incomplete, under construction, and empty of equipment: U.S. Marshall's arrest statement of 7/10/86; statement of Marine Surveyor (Plaintiff's expert) that the vessel has never been completely finished or commissiioned; the Plaintiff's owner, who is quoted in newspaper articles that the boat is about 70% complete.

The 11th Circuit ruled that the Notice of the Appeal was untimely, which the Petitioner feels is in error, and which he makes this motion to extend time to appeal the 11th Circuit's ruling in the event the pending writ is denied.
The Petition for Rehearing was denied 9/29/88.

8.The Petitioner requests 60 days after a final order is issued regarding the Writ to perfect his Petition for Certiorari if the Writ for Mandamus or Prohibition or both is ruled unfavorably.

PRAYER

The Petitioner Prays this Court make a determination that the Trial Court lacks jurisdicition and that this case be dismissed for the reasons given in the Writ of Mandamus/Prohibition; that if the Writ is denied, this Motion to Extend Time be granted for 60 days following a ruling from this Court to perfect a Petition for Writ of Certiorari, and for General Relief.

Respectfully

12-26-88

CERTIFICATE OF SERVICE

Three copies of the foregoing instrument were sent by regular mail to Judge William J. Zloch, U.S. District Judge, Room 202B, 299 East Broward Blvd., Fort Lauderdale, FL 33301 and to Steven Perry, Plaintiff's Attorney, P. O. Drawer 24, Stuart, FL 33497-0024 on this the 27th day of December, 1988.